Office-Supreme Court, U.S.
FILED
SEP 16 1963
JOHN F. DAVIS, CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1963

No. 381

VICTOR A. MEYERS, Secretary of the State of the State of Washington, *Appellant*,

vs.

JAMES THIGPEN and THE LEAGUE OF WOMEN VOTERS OF WASHINGTON, INC., *Appellees*.

UPON APPEAL FROM THE SPECIAL THREE-JUDGE COURT CONVENED IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION

MOTION TO AFFIRM

MYRON L. BORAWICK,
WAYNE R. PARKER,
VINCENT H. D. ABBEY,
Attorneys for Appellee James Thigpen

Office and Post Office Address:
Puget Sound National Bank Bldg., Midway, Washington

STIMSON BULLITT,
WILLIAM GOLDING,
DONALD S. VOORHEES,
Attorneys for Appellee League of Women Voters of Washington, Inc.

Office and Post Office Address:
1411 Fourth Avenue Building, Seattle 1, Washington

THE ARGUS PRESS, SEATTLE, WASHINGTON

In the
Supreme Court of the United States

OCTOBER TERM, 1963

No. 381

VICTOR A. MEYERS, Secretary of the State of the State of Washington, *Appellant*,

vs.

JAMES THIGPEN and THE LEAGUE OF WOMEN VOTERS OF WASHINGTON, INC., *Appellees*.

UPON APPEAL FROM THE SPECIAL THREE-JUDGE COURT CONVENED IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION

MOTION TO AFFIRM

MYRON L. BORAWICK,
WAYNE R. PARKER,
VINCENT H. D. ABBEY,
Attorneys for Appellee James Thigpen

Office and Post Office Address:
Puget Sound National Bank Bldg., Midway, Washington

STIMSON BULLITT,
WILLIAM GOLDING,
DONALD S. VOORHEES,
Attorneys for Appellee League of Women Voters of Washington, Inc.

Office and Post Office Address:
1411 Fourth Avenue Building, Seattle 1, Washington

THE ARGUS PRESS SEATTLE WASHINGTON

INDEX

	Page
Motion to Affirm	1
Additional Statement of the Case	1
Argument	5
A. Appellant's First Question Presented	5
B. Appellant's Second Question Presented	10
C. Appellant's Third Question Presented	12
D. Appellant's Fourth Question Presented	16
E. Appellant's Fifth Question Presented	17
F. Appellant's Sixth Question Presented	18
Conclusion	19
Appendix A—Pre-Trial Order	23

TABLE OF CASES

Baker v. Carr, 369 U.S. 186, 7 L.ed.(2d) 663 (1962) 8, 9, 10, 11, 18

Gray v. Sanders, 9 L.ed.(2d) 821, 83 Sup.Ct. 801 (1963) 18

Maryland Commission for Fair Representation v. Tawes, 228 Md. 412, 180 A.(2d) 656 (1962) 16

Moss v. Burkhardt, 207 F.Supp. 885 (D.C. Okla. 1962) 11

Scholle v. Hare, 369 U.S. 429, 8 L.ed.(2d) 1, 82 Sup. Ct. 910, Reh. Den. 370 U.S. 906, 8 L.ed.(2d) 402, 82 Sup.Ct. 1247 (1962) 9, 11

STATUTES

Chapter 5, Laws 1957, State of Washington 2

Chapter 289, Laws 1957, State of Washington 2

28 U.S.C. § 2284 1

CONSTITUTIONS

Article 2, Section 3, Washington State Constitution 13

Amendment 14, United States Constitution 3, 8, 12, 18

Amendment 30, Washington State Constitution 11, 13, 15, 16

COURT RULES

Rule 16, Revised Rules of the United States Supreme Court 1

In the

Supreme Court of the United States

OCTOBER TERM, 1963

VICTOR A. MEYERS, Secretary of the State of the State of Washington, *Appellant*,

vs.

JAMES THIGPEN and THE LEAGUE OF WOMEN VOTERS OF WASHINGTON, INC., *Appellees*.

No. 381

UPON APPEAL FROM THE SPECIAL THREE-JUDGE COURT CONVENED IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION

MOTION TO AFFIRM

MOTION TO AFFIRM

Appellees, pursuant to Rule 16 of the Revised Rules of the Supreme Court of the United States, move that the final decree of the District Court be affirmed on the ground that the questions raised by appellants are so insubstantial as not to warrant further argument.

ADDITIONAL STATEMENT OF THE CASE

This is a direct appeal from a decree entered on May 27, 1963, by a district court of three judges specially constituted pursuant to 28 U.S.C. Section 2284. The decree declares that the Washington State statutes establishing senatorial and representative districts for the election of senators and representatives

to the legislature of the State of Washington are in violation of the Constitution of the United States of America and are null, void and of no further force and effect. The decree permanently enjoins the defendant Secretary of State, who is the chief election officer of the State of Washington, from himself doing, or from aiding, counseling or advising any other person to do, either directly or indirectly, any of the following specifically listed acts in connection with the election of candidates for the offices of state senator and representative from any district as defined by the Laws of 1957, Chapter 289, Sections 1 through 53, inclusive; and the Laws of 1957, Chapter 5, Sections 1 through 53, inclusive:

1. Accepting any declaration of candidacy;

2. Accepting any filing fee;

3. Accepting any certificate of election from any county auditor;

4. Accepting any official canvass from any county canvassing board;

5. Certifying the election of any individual candidate;

6. Preparing or approving any ballot;

7. Holding any election, either primary or general.

The decree appealed from states further that nothing in the decree shall be construed in any way to:

1. Change the total number and terms of office of senators and representatives provided for by Washington State statutes;

2. Affect voting precincts presently established or which may be created in accordance with law;

3. Affect the present rules and procedures governing the registration of voters and the holding of elections, either primary or general;

4. Prevent the election of members of the legislature from the state at large.

The decree dismissed plaintiff's prayer for relief predicated upon Congressional malapportionment. This portion of the decree is not appealed from.

Finally, the decree provides that the court retains jurisdiction of the cause, and further hearing was set for 2:00 P.M., May 4, 1964, or such other time as the court may direct.

The entire text of the decree of May 27, 1963 is set forth as Appendix A to appellant's Jurisdictional Statement.

Appellee James Thigpen brought this action on June 6, 1962 in the United States District Court for the Western District of Washington, Northern Division. Appellee is a citizen of the United States of America, of the State of Washington and resides in the Midway Precinct of King County which is in the 30th State Legislative District and in the 7th Congressional District. The action was brought on behalf of Appellee Thigpen and all persons similarly situated. Appellee challenged the Washington State statutes establishing the Washington State Legislative apportionment and the seven Congressional Districts in Washington State as being in contravention of the equal protection clause of the 14th Amendment to the United States Constitu-

tion. Appellee League of Women Voters of Washington, Inc. sought and was permitted to intervene in the action.

On July 13, 1963, following a hearing before the three judge Court, appellee's prayer for an Interlocutory Injunction enjoining the Washington State primary election of 1963 was denied. At that time, the court set down the pre-trial hearing for November 12, 1962 and set the trial on the merits for November 27, 1962.

Following several pre-trial conferences between all parties, an extensive Pre-Trial Order was entered by the Honorable William T. Beeks on November 16, 1962. The Order is contained in the record on appeal as Clerk's Filing No. 58. (That Pre-Trial Order together with its Exhibits 7A and 7B is set forth in full as Appendix A hereto.)

On November 30, 1962, trial was held before the three judge Court. The pertinent facts having been agreed upon and contained in the Pre-Trial Order, the trial consisted solely of legal argument based upon the facts. On December 13, 1962, the court below filed its opinion which is set forth in full as Appendix B to appellant's Jurisdictional Statement. In that opinion the court found that the existing apportionment of the Washington Legislature was invidiously discriminatory. The court took notice of the convening of a new legislature on January 14, 1963, and it continued the cause to permit the legislature to take action.

The Washington State Legislature met in regular session and in special session in the early months of 1963. It failed to enact any redistricting legislation.

This cause again came on for hearing on April 29, 1963 at which time the court heard extensive argument from counsel for all parties as to proper and suitable remedies to implement its opinion of December 13, 1962. An oral opinion was rendered on May 3, 1963 and the decree appealed from was entered on May 27, 1963.

ARGUMENT

The Decree of May 27, 1963 of the District Court is plainly correct.

The facts in this case are not in dispute. This matter was heard upon an agreed Pre-Trial Order (Appendix A herein).

Appellant asserts that this appeal presents six questions which merit plenary consideration by this Court. We submit that no one of those asserted questions merits oral argument before this Court.

A. Appellant's First Question Presented

> "Does numerical disparity in population of some districts from which members of a state legislature are elected, without any other showing of discrimination, violate the equal protection clause of the 14th Amendment of the Federal Constitution so as to invalidate all state apportionment laws?"

Appellant's wording of this question implies that the decision of the court below was based upon slight numerical disparities among a few legislative districts. In fact, the decision is founded upon gross numerical disparities among many legislative districts across the length and breadth of the State of Washington.

The 1960 population figures of each of Washington's

49 Legislative Districts together with the apportionment of senators and representatives therein are contained in the Pre-Trial Order. That Order, together with its Exhibits 7A and 7B, reveal many gross numerical disparities among the senatorial and legislative districts. To mention but a few we would point out the following:

1. A comparison of appellee Thigpen's vote in the 30th Legislative District (King County) for the State House of Representatives with that of an individual in the 2nd Legislative District (Pend Oreille and Stevens Counties) shows that his vote has but 25.7% of the value of a vote in the 2nd Legislative District. Conversely, the voter in the 2nd District has a vote value 3.88 times that of appellee Thigpen.

2. Comparison of appellee Thigpen's vote for the State Senate with that of a voter in the 19th Legislative District (Grays Harbor and a portion of Pacific County) shows that his vote has but 20.9% of the value of a vote in the 19th District. Conversely, the voter in the 19th District has a vote value 4.68 times that of appellee Thigpen.

3. The population according to the 1960 census of the 31st Legislative District, which neighbors appellee's district in Southwest King County, is 145,180 persons. It is entitled to one State Senator. Comparing an individual vote for State Senator in the 31st District to an individual vote in the 19th District reveals that the 31st District vote has a value of 13.8% of a vote in the 19th District. Conversely, the 19th District vote has 7.25 times the value of a 31st District vote.

4. Within King County, the 35th Legislative

District has a 1960 population of 30,470 persons and is entitled to one State Senator. The 31st Legislative District with a population of 145,180 is also entitled to one State Senator. Thus the individual vote in the 31st District has a value of but 20.7% of that in the 35th District (downtown Seattle). Conversely, the 35th District vote has a value 4.7 times that of the 31st.

5. If each district had exactly the same population as every other legislative district, the number of persons per State Representative would be 28,527 and the number of persons per State Senator would be 57,636. The 34th Legislative District in King County is the only district approximating the norm. As shown in Exhibits 7A and 7B of the Pre-Trial Order (Appendix A), the other districts range from 57% below the norm to 102% above the norm as to population per State Representative and from 65% below the norm to 152% above the norm as to population per State Senator.

These disparities do not follow any rational pattern or any pattern whatsoever. The disparities occur between different districts in the same counties (30th and 31st compared to 35th in King County; 3rd and 5th in Spokane County; 38th compared to 39th in Island and Snohomish Counties) and between districts in neighboring counties (31st in King compared to 27th in Pierce; 5th in Spokane compared to 2nd in Pend Oreille and Stevens; 20th in Lewis compared to 19th in Pacific and Grays Harbor; 16th in Benton and Franklin compared to 10th in Asotin, Columbia and Garfield Counties).

6. The inequalities also run from north to south (16th in Benton and Franklin compared to 2nd in

Pend Oreille and Stevens) and from east to west (5th in Spokane compared to 19th in Pacific and Grays Harbor Counties).

7. Twenty-five legislative districts containing 35.6% of the total state population have a majority in the State Senate, while 24 districts containing 38% of the total population have a majority in the State House of Representatives.

In its Opinion of December 13, 1962 (Appendix B of appellant's Jurisdictional Statement) the trial court stated:

> "The lines of inequality run the length and breadth of the State, from east to west and from north to south, between contiguous districts and between different districts in the same cities. The inevitable effect thereof has been to increase rather than decrease disparities in voting strength with the growth of population. The conclusion is inescapable that the existing apportionment of the Washington Legislature is invidiously discriminatory."

Exact numerical equality of population among legislative districts is not required by the equal protection clause of the 14th Amendment to the United States Constitution. However, it is clear under *Baker v. Carr*, 369 U.S. 186, 7 L.ed.(2d) 663 (1962) that a voter is deprived of his right to have equal protection of the laws if the number of voters in his legislative district is unreasonably and irrationally larger than the number of voters in other legislative districts.

In his separate concurring opinion in *Baker v. Carr*, *supra*, Mr. Justice Clark set forth some examples of disparity in Tennessee and stated:

> "No one . . . contends that mathematical equality among voters is required by the Equal Protection Clause. But certainly there must be some rational design to a state's districting. The discrimination here does not fit any pattern—as I have said, it is but a crazy quilt."

Bearing in mind that the District Court in the instant case found the Washington legislative districts to be invidiously discriminatory, the question presented in *Scholle v. Hare*, 369 U.S. 429, 8 L.ed.(2d) 1, (1962), is in effect appellant's first question in the instant case. It was:

> "1. Does the 14th Amendment to the U.S. Constitution prohibit the establishment by a state of permanent State Legislative Districts grossly unequal in population?"

The response of this Court in *Scholle v. Hare, supra*, was to remand the case "for further consideration in the light of *Baker v. Carr* . . . ". In effect this Court stated that the issue was settled by *Baker v. Carr* and was not to be considered anew.

It is to be seen from the foregoing that the first of appellant's six asserted questions is without merit. Where the ratio in population of senatorial districts is as high as 7.25 to 1 and of legislative districts as high as 4.7 to 1 in the State of Washington, appellant cannot be heard to say that the voters in the more populous districts have not been deprived of the equal protection of the laws.

B. Appellant's Second Question Presented

"Where initiative and referendum enable voters to enact legislation and accomplish legislative reapportionment independent of the legislature, is action of the federal courts invalidating all apportionment laws warranted upon a simple showing of numerical disparity in some legislative districts?"

By asserting that the foregoing is a question presented by this appeal, appellant implies that the availability in Washington of the initiative and the referendum deprives a Washington voter of his right to challenge the constitutionality of our apportionment statute.

It is true that in *Baker v. Carr, supra,* Mr. Justice Clark noted that Tennessee did not have the initiative. It is clear, however, that Mr. Justice Clark was only underlining the complete impotence of the Tennessee voters to do anything to remedy the malapportionment of their state.

That the initiative can in principle have no effect upon a citizen's right to demand equal protection of the laws with respect to legislative apportionment is demonstrated by the following:

1. If the initiative bars a citizen from challenging the unconstitutionality of a legislative apportionment statute, it must in like measure bar him from challenging the constitutionality of a statute which invidiously discriminates against him because of his race, religion or national origin. It has never been suggested that the initiative has this latter effect.

2. In order to get an initiative measure upon the ballot in the State of Washington, the proponents must secure the signatures of registered voters in number equal to "eight per centum of the number of voters registered and voting for the office of governor at the preceding regular gubernatorial election." Amendment 30 to Washington State Constitution (amending Article 2, Section 1A). In 1962, the number of signatures required exceeded 97,000. Due to this stringent requirement for placing an initiative measure upon the ballot, the power of initiative is, as a practical matter, no remedy at all for an individual citizen who has been deprived of the equal protection of the laws. It is manifestly not the equivalent of the remedy of court action.

3. Implicit in appellant's second question is the contention that an admittedly invidious discriminatory statute can be made constitutional by a failure of the people to change the statute by the initiative process. If such were the law, it would mean that the initiative, rather than being a defense against legislative oppression, would in actuality strip a citizen of the protection which the constitution and the courts afford him.

In *Scholle v. Hare, supra,* that portion of the Michigan Constitution against which the action was directed was in fact adopted by the people of Michigan in a referendum amending the State Constitution. Despite the fact that such adoption was by the people rather than by the legislature, this Court did not hesitate to remand the case for consideration in light of *Baker v. Carr, supra.*

In *Moss v. Burkhardt,* 207 F.Supp. 885 (D.C. Okla. 1962) a three judge District Court held that the exist-

ing apportionment was invalid as being invidiously discriminatory. The people of Oklahoma had the initiative power. Referring to the effect of the availability of the initiative in Oklahoma, the court there stated:

> "We, of course, have in mind the pending Initiative Petition as a possible available remedy, but the right asserted here cannot be made to depend upon the will of the majority. It is founded in the Federal Statute, which gives redress for the deprivation of the civil rights, including the integrity of the ballot." 207 F.Supp. 885, 894.

With reference to the effect of the initiative the court below in the instant case stated in its opinion of December 13, 1962:

> "The inalienable constitutional right of equal protection cannot be made to depend upon the will of the majority."

The availability of the initiative can manifestly have absolutely no weight, one way or another, in the determination of whether a particular statute does or does not deprive a citizen of the equal protection of the laws guaranteed to him by the 14th Amendment to the United States Constitution. The second of appellant's questions is therefore without merit.

C. Appellant's Third Question Presented

> "Where the time interval since enactment of a legislative apportionment statute, unimpeached as to validity at time of enactment is only five years, is federal court action warranted upon a simple showing of present numerical disparity as to population of some districts?"

This question implies that only long-standing grievances are subject to constitutional scrutiny and that a citizen can be deprived of equal protection of the law only if that deprivation has been of long duration.

A brief review of facts set forth in the Pre-Trial Order (Appendix A hereto) is necessary to place this question in perspective:

1. The Washington State Constitution includes the following provision requiring the periodic reapportionment of the legislature:

> "Art. 2 § 3 THE CENSUS. The legislature shall provide by law for an enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter; and at the first session after such enumeration, and also after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and house of representatives, *according to the number of inhabitants*, excluding Indians not taxed, soldiers, sailors and officers of the United States army and navy in active service." (Emphasis ours)

2. Following the adoption of the State Constitution in 1889, the legislature reapportioned the state in the years 1890 and 1901.

3. Thereafter, the people reapportioned the state by means of the initiative process in the year 1930.

4. The state was not then reapportioned until the people again did so by means of Initiative No. 199 which was adopted at the general election in November of 1956. This initiative had been proposed by appellee League of Women Voters of Washington, Inc.

5. Thereafter, the legislature of the State of Washington in its 1957 Session (which convened just two months after the adoption of Initiative No. 199) in effect nullified that initiative by enacting an entirely new apportionment of the state. In its opinion of December 13, 1962, the trial court in this case described that legislative enactment in these words:

> "In 1956, the voters of the State by initiative successfully provided for reapportionment, but in 1957 the Legislature amended the initiative to such an extent that it substantially reestablished the apportionment existing prior to the adoption of the initiative."

6. This action was commenced upon June 6, 1962.

7. The trial of this cause was set down for the 30th day of November, 1962, following the November general election. On the ballot at that election was Initiative No. 211, another apportionment initiative proposed by appellee League of Women Voters of Washington, Inc. The initiative measure was defeated at the polls on November 6, 1962.

8. After the trial of this cause the trial court found that the apportionment statutes of the State of Washington were invidiously discriminatory but deferred final action in order to give to the Washington State Legislature the opportunity at its 1963 Session to reapportion the States constitutionally. The court stated in its opinion of December 13, 1962:

> "Believing, as we do, that redistricting should be accomplished by the body constitutionally responsible therefor and that the sins of the fathers

should not be visited upon the sons, we are deferring final action to afford it the opportunity of discharging its constitutional mandate. If it fails, we, ever conscious of our oath to uphold the Constitution of the United States, will unhesitatingly take appropriate action to correct the inequity. Having so said, the matter is continued until April 8, 1963, for further hearing."

9. After a regular and a special session in 1963 the Legislature adjourned without having enacted any redistricting legislation.

Since the 1960 Federal census, therefore, both the people and the legislature of the State of Washington have had the opportunity to reapportion the state in conformity with the 1960 population figures. This they have not done.

If, as appellant urges, too little time has elapsed since the passage of the 1957 apportionment statute for it to be declared unconstitutional, how much time must elapse before it can be declared unconstitutional? The Legislature of the State of Washington will have only three additional sessions—in 1965, 1967 and 1969—before the 1970 Federal census is taken. Is it necessary that the Washington Legislature fail in each of those three sessions to enact a new apportionment statute before the 1957 apportionment can be declared unconstitutional? If so, the 1970 census figures will then supersede the 1960 census, and entirely new factual determinations will have to be made in another court action.

The Washington Constitution itself requires that the legislature be reapportioned according to the number of inhabitants after each Federal census. The decree of

the court below is in effect but an enforcement of this requirement of the Washington Constitution.

D. Appellant's Fourth Question Presented

"Is an injunction against holding any legislative elections under existing apportionment statutes an appropriate equitable remedy for population disparities in some legislative districts, where the result may be a governmental hiatus or an at-large election so cumbersome as to defeat any intelligent voter selection of members of the legislature?"

This is an *in terrorem* argument. It ignores the obvious solution to the entire problem, the calling of a special session of the Washington State Legislature to district the State of Washington in accordance with the Constitution of the State of Washington and the Constitution of the United States of America. A similar argument in a reapportionment case was made and rejected by the Maryland Supreme Court in *Maryland Commission for Fair Representation v. Tawes*, 228 Md. 412, 180 A.(2d) 656 (1962).

This question implies that the present apportionment statute should not be declared unconstitutional because there is the possibility that the Washington Legislature might fail to enact a constitutional apportionment statute in time for the general elections in 1964. This is to argue that the court *should* stay its hand because the legislature *may* stay its hand.

The legislature of the State of Washington has the power to avoid the twin spectres conjured up by appellant. Appellant cannot be heard to urge that the citi-

zens of the State of Washington must continue to live with an unconstitutional apportionment statute simply because there is no assurance that their legislature will exercise the power which it has.

It is true, of course, that it would be more convenient for the state and its legislature if the unconstitutionality of its apportionment statute were simply ignored. That would remove from the legislature the difficult and arduous task of enacting a constitutional apportionment statute. But convenience has never been, nor can it be, a proper criterion for determining whether a statute denies equal protection of the laws to a citizen.

It is to be noted that the trial court has not ordered elections at large. The trial court has simply declared the present apportionment statute to be unconstitutional. The remedy is left to the state.

E. Appellant's Fifth Question Presented

> "Where a state constitution is interpreted by its Supreme Court allows substantial variations as to population of districts from which members of the state legislature are elected, including different standards for representation as between the Senate and the House of Representatives, are state laws and constitutional provisions relative to apportionment void as in violation of the equal protection clause of the 14th Amendment of the Federal Constitution merely upon a showing of numerical disparity in some legislative districts?"

This question is repetitive of appellant's first asserted question.

It is true that exact numerical equality among legis-

lative districts is not required by the equal protection clause. Since *Baker v. Carr,* however, the supreme law of the land is that such gross inequalities as exist under the present apportionment statute of the State of Washington are violative of the 14th Amendment to the United States Constitution. As Mr. Justice Douglas stated in *Gray v. Sanders,* 9 L.ed.(2d) 821, 83 Sup. Ct. 801 (1963):

> "As we stated in *Gomillion v. Lightfoot, supra* (364 U.S. p. 347):
>
> "'When a state exercises power wholly within the domain of state interest, it is insulated from Federal Judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right.'"

F. Appellant's Sixth Question Presented

> "What, if any, limits exist as to the extent of federal court supervision over actions by a state to apportion representation in its legislature?"

By reason of the fact that the court below retained jurisdiction of this cause and noted the same down for further hearing upon the 4th day of May, 1964, appellant argues that the court below is exercising unwarranted control over the elective process in the State of Washington.

In this uncharted sea, it is only natural that the court below should proceed cautiously. It has done so. As noted above, the court set the trial of this cause for a date subsequent to the general elections in the State of Washington in November of 1962 in order that the peo-

ple of the state might have the opportunity to vote upon a reapportionment initiative. Following the trial of this cause, the court did not enter a decree until the legislature of the State of Washington had the opportunity to enact a new apportionment statute. The decree entered by the trial court went no further than to declare the present apportionment statute unconstitutional and to enjoin the Secretary of State from conducting any election under the present and past apportionment statutes.

Certainly, the trial court had the power to retain jurisdiction of this cause and to have a further hearing on May 4, 1964. It had that power, if for no other reason, in order to inquire as to whether its decree was being complied with by appellant.

CONCLUSION

We respectfully submit, therefore, that this appeal presents no substantial question for the decision of this Court and that the judgment and decree of the District Court should be affirmed.

MYRON L. BORAWICK,
WAYNE R. PARKER,
VINCENT H. D. ABBEY,
Counsel for Appellee Thigpen

STIMSON BULLITT,
WILLIAM GOLDING,
DONALD S. VOORHEES,
Counsel for Appellee League of Women Voters of Washington, Inc.

Appendix

A

APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON NORTHERN DIVISION

PRE-TRIAL ORDER

JAMES THIGPEN, *Plaintiff,*

vs.

VICTOR A. MEYERS, Secretary of State of the State of Washington, JOHN O'CONNELL, Attorney General of the State of Washington; ROBERT MORRIS, Auditor of King County, Washington; and CHARLES CARROLL, Prosecuting Attorney of King County, Washington, *Defendants,*

LEAGUE OF WOMEN VOTERS OF WASHINGTON, *Intervenor.*

No. 5597

As a result of pre-trial conference heretofore had, whereat the plaintiff was represented by M. L. Borawick of Parker & Borawick, his attorneys of record, and the defendant Victor A. Meyers and John O'Connell by Philip Austin, Assistant Attorney General, and the defendant Robert Morris by William Paul, Jr., Assistant King County Prosecuting Attorney, and the League of Women Voters of Washington by Donald Voorhees, Esq., of Riddell, Williams, Voorhees, Ivie & Bullitt, its attorneys of record, the following issues of fact and law were framed and exhibits identified:

Jurisdiction

1. Jurisdiction is vested in this Court, by virtue of: The allegations in the Complaint of the plaintiff alleging the apportionment of the State legislative districts

and the United States congressional districts in the State of Washington are arbitrarily and capriciously apportioned and that the plaintiff and all others similarly situated has had his vote debased by the legislature of the State of Washington, and is therefore deprived of equal protection under the law, as guaranteed by the 14th Amendment to the United States Constitution; jurisdiction is further vested in this Court by Title 28, U.S. Code, Sec. 1343 (3), entitled 28 U.S.C.A., Sec. 1343 (3).

Admitted Facts

2. The following facts are admitted by the parties:

(1) That the plaintiff, James Thigpen, is a citizen of the United States of America and of the State of Washington, and at the time of filing of this action was and now is a resident of the Midway Precinct, King County, which precinct is in the 30th state legislative district and in the 7th congressional district. That plaintiff is a registered voter.

(2) That the defendant Victor A. Meyers is the duly elected, qualified and acting Secretary of State of the State of Washington, and is charged under the laws of the State of Washington, as chief election officer of the State of Washington, with the duty of keeping records of all state elections, making rules and regulations to facilitate the orderly execution of state election laws, of accepting declarations of candidacy and filing said declarations for the United States House of Representatives and for the State Senate and the State House of Representatives in districts which comprise more than one county, and further being charged with the duty of transmitting to the County Auditor of each county in the State of Washington a list of candidates for state and federal offices to be voted on in each primary election, of certifying to each county auditor in

the State of Washington the names and places of residence of each person nominated for state office, and of issuing certificates of election to those persons who are elected to the state legislature from legislative districts comprising more than one county.

(3) That the defendant John O'Connell is the duly elected, qualified and acting Attorney General of the State of Washington.

(4) That the defendant Robert A. Morris is the duly elected, qualified and acting Auditor of King County, Washington; that under the provisions of the laws of the State of Washington, said Robert A. Morris has the duty of publishing notice of primary elections within King County, of publishing notice of general elections for state offices within King County, of accepting declarations of candidacy for the state legislature in districts lying within King County, of mailing absentee ballots for the offices of the United States House of Representatives and the State Legislature to absent voters within King County and of notifying elected members of the State Legislature from King County legislative districts of their election and issuing to them, on demand, certificates of election.

(5) That the population of the State of Washington, according to the 1960 federal census, is 2,824,177 persons.

(6) That the populations of the seven congressional districts in the State of Washington in the 1960 census are as follows:

1st Congressional District, 420,548
2nd Congressional District, 366,395
3rd Congressional District, 342,540
4th Congressional District, 414,764
5th Congressional District, 399,093

6th Congressional District, 370,325
7th Congressional District, 510,512

(7) That the population, according to the 1960 census, of the legislative districts in the State of Washington, is as follows:

Dist. No.	*Dist. Area*	*1960 Pop.*	*Representatives per Dist.*	*Senators per Dist.*
1	Douglas and Okanogan	40,410	2	1
2	Pend Oreille and Stevens	24,798	2	1
3	Spokane, part	45,397	2	1
4	Spokane, part	68,262	2	1
5	Spokane, part	93,475	2	1
6	Spokane, part	37,837	2	1
7	Spokane, part	33,362	2	1
8	Adams, Ferry, Lincoln	24,737	1	1
9	Whitman	31,263	2	1
10	Asotin, Columbia, Garfield	20,454	1	1
11	Walla Walla	42,195	2	1
12	Chelan	40,744	2	1
13	Grant, Kittitas	66,944	2	1
14	Yakima, part	74,299	3	1
15	Yakima, part	70,813	2	1
16	Benton, Franklin	85,412	2	1
17	Clark, part, Klickitat	43,896	1	1
18	Cowlitz, Wahkiakum	61,227	2	1
19	Grays Harbor, part, Pacific	20,023	1	1
20	Lewis	41,858	2	1
21	Grays Harbor (except 19 pcts.)	49,116	2	1
22	Thurston	55,049	2	1
23	Kitsap	84,176	3	1
24	Clallam, Jefferson, Mason	55,912	3	1
25	Pierce, part	59,510	2	1
26	Pierce, part	50,065	2	1

Dist. No.	Dist. Area	1960 Pop.	Representatives per Dist.	Senators per Dist.
27	Pierce, part	45,272	2	1
28	Pierce, part	64,715	2	1
29	Pierce, part	72,991	2	1
30	King, part	95,673	2	1
31	King, part	145,180	3	1
32	King, part	45,121	2	1
33	King, part	52,798	2	1
34	King, part	57,059	2	1
35	King, part	30,470	2	1
36	King, part	46,164	2	1
37	King, part	38,800	2	1
38	Island, part; Snohomish, part	140,023	3	1
39	Island, part; Snohomish, part	51,814	2	1
40	San Juan, Skagit	54,222	2	1
41	Whatcom, part	35,629	1	1
42	Whatcom, part	34,688	2	1
43	King, part	40,752	2	1
44	King, part	58,990	2	1
45	King, part	70,288	2	1
46	King, part	67,338	2	1
47	King, part	71,084	2	1
48	King, part	115,297	2	1
49	Clark, part	68,575	3	1

(8) The legislative authority of the State of Washington is vested in the State Senate and in the State House of Representatives by Article II of the Washington State Constitution, as amended by the 7th Amendment to the Washington State Constitution. The pertinent provisions of the State Constitution are:

"ARTICLE II, Section 1. LEGISLATIVE POWERS, WHERE VESTED. The legislative powers shall be

vested in a senate and a house of representatives, which shall be called the legislature of the State of Washington." (1889)

AMENDMENT 7. Article II was amended by striking all of sections 1 and 31, and inserting in lieu thereof as Section 1 the following, so that the same shall read as follows:

"ARTICLE II, Section 1. LEGISLATIVE POWERS, WHERE VESTED. The legislative authority of the State of Washington shall be vested in the legislature, consisting of a senate and house of representatives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section or part of any bill, act or law passed by the legislature." (1909, p. 642, Sec. 1. Approved November, 1910.)

(9) The composition of the Washington State Legislature is provided for by Article II, Section 2 of the Washington State Constitution which states:

"ARTICLE II, Section 2. HOUSE OF REPRESENTATIVES AND SENATE. The house of representatives shall be composed of not less than sixty-three nor more than ninety-nine members. The number of senators shall not be more than one-half nor less than one-third of the number of members of the House of Representatives." (1889)

(10) The reapportionment of the Washington State Legislature is provided for in Article II, Section 3 of the Washington State Constitution which provides:

"ARTICE II, Section 3. THE CENSUS. The legisla-

ture shall provide by law for an enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter; and *at the first session after such enumeration, and also after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and house of representatives, according to the number of inhabitants,* excluding Indians not taxed, soldiers, sailors and officers of the United States army and navy in active service." (1889)

(11) The only provision in the Washington State Constitution respecting territory to be contained in a state legislative district is contained in Article II, Section 6, which states:

"ARTICLE II, Section 6. ELECTION AND TERM OF OFFICE OF SENATORS. After the first election the senators shall be elected by single districts of convenient and contiguous territory, at the same time and in the same manner as members of the house of representatives are required to be elected; and no representative district shall be divided in the formation of a senatorial district . . ." (1889)

(12) The Washington State Legislature is presently composed of 99 representatives and 49 senators from 49 legislative districts in the State of Washington. The definition of the boundaries of these 49 legislative districts and the number of representatives and senators to which each is entitled is set forth in the following laws of the State of Washington:

Laws of 1957, Chapter 289, Sections 1 through 53, inclusive;

Laws of 1957, Chapter 5, Sections 1 through 53, inclusive.

Revised Code of Washington, Chapter 44.06.010 through 44.06.530, inclusive.

(13) The history of reapportionment and redistricting of the Washington State Legislature following the enactment of the State Constitution in 1889 commenced in 1890 and 1901 when redistricting and apportionment acts were passed by the State Legislature. These acts were passed to complete the partially finished districting and apportionment in effect when the State Constitution was ratified in 1889. In neither act did the State Legislature conform to Article II, Section 3, of the State Constitution providing for apportionment and districting "according to the number of inhabitants," since at least one representative was given to each county in Washington State under the Act of 1901, regardless of population.

Since 1901, the Washington State Legislature has not reapportioned or redistricted the State Legislature of its own volition.

In 1930, Initiative Measure No. 57 was adopted at the November election. It provided for an increase in state senators from 42 to 46. The number of representatives was increased from 97 to 99. It also made the representative district boundaries coincide with senatorial district boundaries and gave each legislative district a minimum of 2 representatives.

In 1956, Initiative Measure No. 199 was passed at the November election. In the State Legislature session of 1957, Substitute SB 374 (Chapter 289, Laws of 1957) amended Initiative No. 199. This bill was passed by the Legislature. It created 3 new legislative districts, 47, 48 and 49.

The constitutionality of this act was questioned in *State ex rel. O'Connell v. Meyers*, 51 Wn.(2d) 454, 319

P.(2d) 828 (1957). The basis of the attack was the disproportionateness of the population of the various districts created by the act which, according to the Relator, violated Article II, Section 3, of the Washington State Constitution. The Washington State Supreme Court, per Justice Ott, held that the Relator failed to prove disproportionateness of population of the various districts, that the Supreme Court, while it could take judicial notice of the 1950 federal census, could not take judicial notice of the 1950 population of the legislative districts and that, therefore, the Court had to presume the State Legislature performed its duty in establishing the districts according to law, *i.e.,* Article II, Section 3, of the Constitution.

In 1962, Initiative Measure No. 211, which sought to redistrict the State Legislative Districts according to population shown by the 1960 Federal census, was defeated in the November 6th election.

(14) Article I, Section 3, of the United States Constitution provides:

> "The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the places of choosing senators."

(15) The State of Washington, because of its population, is entitled to 7 Representatives in the Congress.

(16) The district boundaries of each of the 7 congressional districts in the United States House of Representatives are defined by the following statutes of the State of Washington:

1st District—Chapter 149, Sec. 2, Laws of 1957; RCW 29.68.011;

2nd District—Chapter 149, Sec. 3, Laws of 1957; RCW 29.68.021;

3rd District—Chapter 28, Sec. 3, Laws of 1931; RCW 29.68.030; RRS Sec. 3794;

4th District—Chapter 28, Sec. 4, Laws of 1931, RCW 29.68.040; RRS Sec. 3795;

5th District—Chapter 28, Sec. 5; Laws of 1931; RCW 29.68.050; RRS Sec. 3796;

6th District—Chapter 288, Sec. 2, Laws of 1959; RCW 29.68.062;

7th District—Chapter 288, Sec. 3, Laws of 1959; RCW 29.68.066.

(17) Based on the 1960 Federal census, which shows the total Washington state population to be 2,824,177 persons, if each legislative district had exactly the same population as every other legislative district, then the number of persons per state representative would be 28,527.

Twenty-four legislative districts containing 1,086,924 persons, or 38.0% of the total state population, have 51 of the 99 votes in the State House. These districts are: 1st, 2nd, 3rd, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 14th, 19th, 20th, 21st, 24th, 26th, 27th, 32nd, 33rd, 35th, 39th, 42nd, 43rd and 49th. (Attorney General objects to the relevancy of this comparison.)

The 1960 population of the 30th legislative district is 95,673. It has 2 state representatives, or 47,836 per representative.

The 1960 population of the 2nd legislative district is 24,798. It has 2 state representatives, or 12,399 persons per representative.

Comparing the vote of plaintiff in the 30th legislative district to that of an individual in the 2nd legisla-

tive district for the State House of Representatives, plaintiff has a 25.7% vote value, while the voter in the 2nd district has a vote value of 3.88 times plaintiff's.

The 1960 population of the 35th legislative district is 30,470. It has 2 state representatives, or 15,236 per representative.

Comparing the vote of plaintiff in the 30th legislative district to that of an individual in the 35th legislative district (central Seattle), plaintiff has 31.8% vote value, while the voter in the 35th district has a vote value of 3.14 that of plaintiff.

The population of the 48th legislative district (Northeast King County) according to the 1960 census, is 115,297 persons. It has 2 State Representatives, or 57,648 persons per representative.

Comparing the value of an individual's vote in the 48th district with the vote of an individual in the 2nd legislative district, the vote in the 48th district has 21.3% of the value, while the voter in the 2nd legislative district has a vote value of 4.69 times that of the individual in the 48th district.

(18) Based on the 1960 Federal census, which shows the total Washington state population to be 2,824,177 persons, if each legislative district had exactly the same population as every other legislative district, then the number of persons per state senator would be 57,636 persons.

(19) Taking 25 of the most over-represented legislative districts in the State Senate, 35.6% of the total state population, or 1,008,415 persons have a majority in the State Senate. These districts are: 1st, 2nd, 3rd, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 17th, 19th, 20th, 21st, 26th, 27th, 32nd, 33rd 35th, 36th, 37th, 39th, 41st, 42nd

and 43rd. (The Attorney General objects to the relevancy of this comparison.)

(20) The population of plaintiff's legislative district in South King County is 95,673 and it is entitled to 1 State Senator. The 19th legislative district, composed of Grays Harbor County and a portion of Pacific County, has a total population according to the 1960 census, of 20,023 persons. Comparing the value of plaintiff's vote to that of an individual in the 19th district, plaintiff's vote has 20.9% of the value, while the voter in the 19th district has a vote value of 4.68 times that of plaintiff.

The population of the 38th legislative district, composed of a portion of Island and a portion of Snohomish Counties, is 140,023 persons, according to the 1960 census. Comparing the value of a voter in the 38th district to that of a voter in the 19th district, the value of the 38th district vote is only 14.2%, while the value of the 19th district vote is 7 times the value of the 38th district vote.

The population of the 31st district (Southwest King County), is 145,180 persons, according to the 1960 census, and it is entitled to 1 State Senator. Comparing the value of an individual vote in the 31st district to the 19th district, the value of the 31st district vote is 13.8% of the value of the 19th district vote, while the value of the 19th district vote is 7.25 times the value of the 38th district vote.

The populaion of the 10th legislative district (Asotin, Columbia and Garfield Counties) is 20,454 persons, according to the 1960 census. Comparing the value of an individual vote in the 31st district to the 10th district, the value of the 31st district vote is 13.9% of the value of the 10th district vote, while the value of the

10th district vote is 7.11 times that of the 1st district vote.

(21) Based on the 1960 Federal census, which shows the total Washington state population to be 2,824,177 persons, if each congressional district had exactly the same population as every other congressional district, then the number of persons per congressional district would be 403,311 persons. Compared to this population figure, the 1st Congressional district is over by 17,273 persons, the 2nd congressional district is under by 36,916 persons, the 3rd congressional district is under by 60,711 persons, the 4th congressional district is over by 11,453 persons, the 5th congressional district is under by 4,218 persons, the 6th congressional district is under by 32,968 persons, and the 7th congressional district is over by 108,201 persons, according to the 1960 federal census.

(22) The following is a table showing the value of the individual vote for the United States House of Representatives in the 7th congressional districts to the other districts:

7th compared to 3rd—67%	3rd compared to 7th—150%
7th compared to 2nd—71%	2nd compared to 7th—140%
7th compared to 6th—72%	6th compared to 7th—138%
7th compared to 5th—78%	5th compared to 7th—128%
7th compared to 4th—81%	4th compared to 7th—123%
7th compared to 1st—82%	1st compared to 7th—121%

(23) The 1960 Federal census figures were not available to the Washington State Legislature until February, 1961.

(24) Each of the exhibits attached to this Order and made a part hereof is an accurate representation of what it purports to depict. These exhibits are:

1. A circle chart comparing the six congressional districts in the State of Washington to the 7th congressional district.

2. A circle chart comparing the vote of an individual in the 30th legislative district; for the State Senate to certain other legislative districts in the State of Washington.

3. A circle chart comparing the vote of an individual in the 30th legislative district for the State House of Representatives to certain other legislative districts in the State of Washington.

4. A population study based on the 1960 federal census of the State legislative districts, made by the Washington State Secretary of State.

5. A map showing the boundaries of the legislative districts in the State of Washington, together with the population in each district and the principal economic activities in each district.

6. A map showing the boundaries of the congressional districts in the State of Washington.

7. A comparison table of legislative districts.

Issues of Law

6. The following are the issues of law to be determined by the Court:

(1) Does so much of the complaint as alleges the unconstitutionality of statutes of the state of Washington relating to apportionment and districting of representation in the United States House of Representatives state a justiciable claim, in view of *Colgrove v. Green*, 328 U.S. 599, 90 L.Ed. 1432, 66 S.Ct. 1198 (1945)?

(2) Does so much of the complaint as alleges the unconstitutionality of statutes of the state of Washing-

ton relating to apportionment and districting of the state legislature assert a justiciable claim, inasmuch as an initiative containing proposed changes in said laws was disapproved by a substantial majority of the voters of the state of Washington at the November 6, 1962, general state election?

(3) Is the present districting and apportionment of the Congressional Districts in the state of Washington unconstitutional, in whole or in part, on the ground that it is in violation of the 14th Amendment to the Constitution of the United States of America?

(4) Is the present districting and apportionment of the Washington State Legislature unconstitutional, in whole or in part, on the ground that it is in violation of the 14th Amendment to the Constitution of the United States of America?

(5) If the present districting and apportionment of the Congressional Districts in the state of Washington is unconstitutional, in whole or in part, what is the proper remedy to grant plaintiff?

(6) If the present districting and apportionment of the Washington State Legislature is unconstitutional, in whole or in part, what is the proper remedy to grant plaintiff?

Expert Witnesses

7. None.

Other Witnesses

8. The names of witnesses, other than experts, to be used by each party at the time of trial are: None.

Exhibits

9. (a) See item (25) of agreed facts, *supra*.

(b) Official final tabulation of votes on Initiative 211 at the November, 1962, general election, including a county by county breakdown.

Action by the Court

10. The Court has ruled that:

(a) Trial briefs shall be submitted to the Court on or before November 16, 1962.

(b) 1. This action is to be heard on November 27, 1962, before a three-Judge United States District Court convened in accordance with the provisions of 28 U.S.C.A., Sec. 2281, and 28 U.S.C.A., Sec. 2284.

2. The Motion of the defendants Secretary of State and Attorney General of the state of Washington to dismiss the Complaint on the grounds that it fails to state a claim was denied.

3. The Motion of plaintiff for an Interlocutory Injunction was denied.

4. The Motion of plaintiff to amend his Complaint to pray that the Court declare null and void and inoperative for all future elections those laws of the state of Washington which define the boundaries and apportion the Washington State Legislature; and those laws of the state of Washington which define the boundaries of the Congressional Districts, was granted.

5. The respective issues of alleged Congressional malapportionment and alleged malapportionment of the state legislature are to be deemed separate and distinct issues.

6. In accordance with agreement of all of the parties, this order may be signed and executed solely by

e undersigned United States district judge on be-
lf of the court.

Dated this 16th day of November, 1962.

WILLIAM T. BEEKS
UNITED STATES DISTRICT JUDGE

EXHIBIT 7A

Number of Voters Per State Senator in Each Legislative District

(Each Legislative District Has One Senator)

District Area	*1960 Population*	*Percentage Over or Under 57,636 voters per Senator*
King, part	145,180	+152%
Island, part; Snohomish, part	140,023	+143
King, part	115,297	+100
King, part	95,673	+66
Spokane, part	93,475	+62
Benton, Franklin	85,412	+48
Kitsap	84,176	+46
Yakima, part	74,299	+29
Pierce, part	72,991	+27
King, part	71,084	+23
Yakima, part	70,813	+23
King, part	70,288	+22
Clark, part	68,575	+19
Spokane, part	68,262	+18
King, part	67,338	+17
Grant, Kittitas	66,944	+16
Pierce, part	64,715	+12
Cowlitz, Wahkiakum	61,227	+6
Pierce, part	59,510	+3
King, part	58,990	+2
King, part	57,059	—1
Clallam, Jefferson, Mason	55,912	—3

District No.	*District Area*	*1960 Population*	*Percentage Over or Under 57,636 voters per Senator*
22	Thurston	55,049	—5
40	San Juan, Skagit	54,222	—6
33	King, part	52,798	—8
39	Island, part; Snohomish, part	51,814	—10
26	Pierce, part	50,065	—13
21	Grays Harbor (except 19 pcts.)	49,116	—15
36	King, part	46,164	—20
3	Spokane, part	45,397	—21
27	Pierce, part	45,272	—21
32	King, part	45,121	—22
17	Clark, part; Klickitat	43,896	—24
11	Walla Walla	42,195	—26
20	Lewis	41,858	—27
43	King, part	40,752	—29
12	Chelan	40,744	—29
1	Douglas and Okanogan	40,410	—30
37	King, part	38,800	—33
6	Spokane, part	37,837	—34
41	Whatcom, part	35,629	—38
42	Whatcom, part	34,688	—40
7	Spokane, part	33,362	—42
9	Whitman	31,263	—46
35	King, part	30,470	—47
2	Pend Oreille and Stevens	24,798	—57
8	Adams, Ferry, Lincoln	24,737	—57
10	Asotin, Columbia, Garfield	20,454	—64
19	Grays Harbor, part; Pacific	20,023	—65

EXHIBIT 7B

Number of Voters Per Representative in Each Legislative District

(Each Legislative District Has One Representative Unless Otherwise Indicated)

District No.	*District Area*	*1960 Population per Representative*	*Percentage Over or Under 28,527 Voters per Representative*
48	King, part	57,648	+102%
31	King, part***	48,393	+70
30	King, part	47,836	+68
5	Spokane, part	46,737	+64
38	Island, part;*** Snohomish, part	46,674	+64
17	Clark, part, Klickitat	43,896	+54
16	Benton, Franklin	42,706	+50
29	Pierce, part	36,495	+28
41	Whatcom, part*	35,629	+25
47	King, part	35,542	+24
15	Yakima, part	35,406	+24
45	King, part	35,144	+23
4	Spokane, part	34,131	+20
46	King, part	33,669	+18
13	Grant, Kittitas	33,472	+17
28	Pierce, part	32,357	+13
18	Cowlitz, Wahkiakum	30,613	+7
25	Pierce, part	29,755	+4
44	King, part	29,495	+4
34	King, part	28,529	0
23	Kitsap***	28,059	—1
22	Thurston	27,524	—4
40	San Juan, Skagit	27,111	—5
33	King, part	26,399	—7
39	Island, part; Snohomish, part	25,907	—9
26	Pierce, part	25,032	—12
14	Yakima, part***	24,766	—13

District No.	*District Area*	*1960 Population per Representative*	*Percentage Over or Under 28,527 Voters per Representative*
8	Adams, Ferry, Lincoln*	24,737	—13
21	Grays Harbor (except 19 pcts.)	24,558	—14
36	King, part	23,082	—19
49	Clark, part***	22,858	—20
3	Spokane, part	22,698	—20
27	Pierce, part	22,636	—21
32	King, part	22,560	—21
11	Walla Walla	21,097	—26
20	Lewis	20,929	—27
10	Asotin, Columbia, Garfield*	20,454	—28
43	King, part	20,376	—28
12	Chelan	20,372	—29
1	Douglas and Okanogan	20,205	—29
19	Grays Harbor, part, Pacific*	20,023	—30
37	King, part	19,400	—32
6	Spokane, part	18,918	—34
24	Clallam, Jefferson, Mason***	18,637	—35
42	Whatcom, part	17,344	—39
7	Spokane, part	16,681	—41
9	Whitman	15,631	—45
35	King, part	15,235	—47
2	Pend Oreille and Stevens	12,399	—57

***Three representatives
*One representative